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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,266	09/17/2003	Isao Hanai	HIR-140	3416
7590	09/09/2005		EXAMINER	
LORUSSO LOUD & KELLY LLP 15 RYE STREET Suite 312 Portsmouth, NH 03801			PAPE, JOSEPH	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## *KC*

### Office Action Summary

Application No.	Applicant(s)	
10/664,266	HANAI ET AL.	
Examiner	Art Unit	
Joseph D. Pape	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 August 2005.  
2a) This action is FINAL.                    2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-6 and 32-45 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 1-6 and 32-45 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on 17 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/17/05.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: On page 9, line 9 is awkwardly phrased.

Appropriate correction is required.

### ***Claim Objections***

2. Claims 2-3 are objected to because of the following informalities: In claim 2, the phrase "dimensioned to accept the shock absorbing material" appears to be redundant with the language on lines 3-4. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-6, 39, and 42-44, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Miller.

Miller discloses the claimed invention including first arm 2, second arm 4, and a mid-filler attachment 14, 32, with non-planar walls and no lid or bottom plate. The non-planar walls define a hollow center. The first arm 2 includes attachment means 3 for removal and attachment to a car frame 44. The second arm is attached to the bumper 16 and the means for attachment inherently permits removal of the second arm from the bumper given sufficient force to do so. Miller discloses a mid-filler attachment that is polygonal or diamond shaped as in Figure 2.

5. Claims 1-2, 4-5, and 32-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Berk

Berk discloses the claimed invention including a shock absorbing device with a first arm 1, a second arm 2, an elliptical mid-filler attachment 3 with a hollow center receiving a shock absorbing material 4. The arms are affixed to the mid-filler attachment in a manner that is intended to be permanent.

Regarding claims 4-5, the first and second arms are provided with means which are capable of being used to attach the first and second arms to a car frame and bumper, respectively.

6. Claims 1, 32 and 35-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Dennebaum.

Dennebaum discloses the claimed invention including a shock absorbing device with a first arm 35, a second arm 34, a circular type elliptical mid-filler attachment 65

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with a hollow center capable of receiving a shock absorbing material. The arms are affixed to the mid-filler attachment in a manner that is intended to be permanent.

Regarding claims 36 and 37, the first and second arms are provided with means which are capable of being used to attach the first and second arms to a car frame and bumper, respectively

Re claim 38, element 14 is considered to be a "bumper" as broadly as recited.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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9. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Berk.

Miller discloses the claimed invention except for a shock absorbing material being affixed within the hollow center of the mid-filler attachment.

Berk discloses a mid filler attachment arrangement including first arm 1, second arm 2, and a mid-filler attachment 3 with shock absorbing material 4, with no lid or bottom plate.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the hollow center of the mid filler attachment of Miller with a shock absorbing material as taught by Berk in order to enhance the energy absorbing capacity of the device.

10. Claims 41 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 40 above, and further in view of Straza et al.

Miller, as modified, discloses the claimed invention except for symmetrical voids in the shock absorbing material having a loofah type cross section.

Straza et al. disclose a vertically oriented shock absorbing filling material for a vehicle bumper application which comprises symmetrical voids in the shock absorbing material having a loofah type cross section.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the shock absorbing material of Straza et al. having

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symmetrical voids with a loofah type cross section for that of Miller, as modified, as an alternate energy absorbing arrangement which absorbs energy in a more predictable and symmetrical manner.

11. Claims 3 and 34, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Berk in view of Straza et al.

Berk discloses the claimed invention including a shock absorbing device with a first arm 1, a second arm 2, an elliptical mid-filler attachment 3 with a hollow center receiving a shock absorbing material 4. The arms are affixed to the mid-filler attachment in a manner that is intended to be permanent.

Straza et al. disclose a vertically oriented shock absorbing filling material for an energy absorbing application which comprises symmetrical voids in the shock absorbing material having a loofah type cross section.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the shock absorbing material of Berk for one having symmetrical voids with a loofah type cross section as taught by Starza et al. as an alternate energy absorbing arrangement which absorbs energy in a more predictable and symmetrical manner.

***Response to Arguments***

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12. Applicant's arguments filed 7/18/05 have been fully considered but they are not persuasive.

Regarding the rejection of claims under 102 with Miller, applicant's arguments pertaining to these rejections are not persuasive. As set forth above Miller is considered to include arms 2 and 4 not 10 and 12 as argued by applicant. Further, in addition to first expanding, the elements 14, 32 comprising the mid-filler attachment of Miller would also continue to deform so as to flatten given a sufficiently large enough force. Finally, the claims in question recite that the midfiller attachment has a hollow center "dimensioned to accept shock absorbing material" which is not a positive recitation of such material. The reference to Miller merely needs to be capable of accepting such a material to anticipate this language which it does.

Other arguments are moot in view of new grounds of rejection.

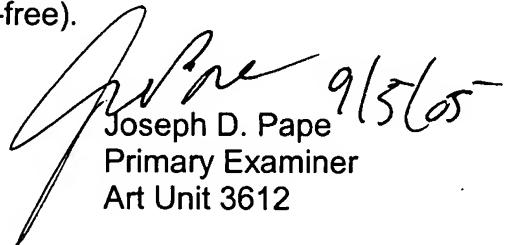
### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (571)272-6664. The examiner can normally be reached on Tuesday-Friday 6:30 AM-3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571)-272-6659.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph D. Pape  
Primary Examiner  
Art Unit 3612

Jdp

September 5, 2005